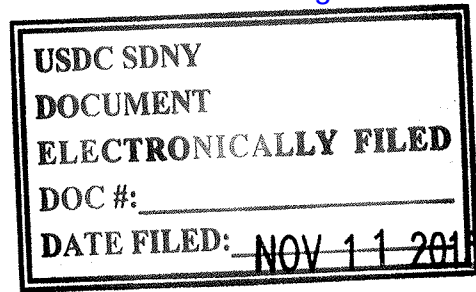


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Ezekiel Frederick,
Plaintiff,

—v—

Capital One Bank (USA) N.A. *et al.*,
Defendants.

14-CV-5460 (AJN)

ORDER

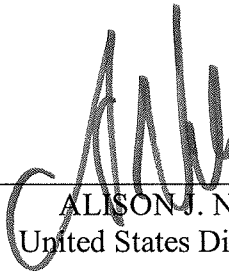
ALISON J. NATHAN, District Judge:

On November 3, 2015, Plaintiff filed motions to strike almost all of the affirmative defenses in Defendants Capital One, Pinnacle, Tina Vincelli, and Midland’s Answers. *See* Dkt. Nos. 131, 132, 133. Federal Rule of Civil Procedure 12(f) permits a district court to strike “from any pleading an insufficient defense.” *See* Fed. R. Civ. P. 12(f). However, motions to strike affirmative defenses are “not favored and will not be granted ‘unless . . . plaintiffs would succeed despite any state of the facts which could be proved in support of the defense.’” *William Z. Salcer, Panfeld, Edelman v. Envicon Equities Corp.* (“*Edelman*”), 744 F.2d 935, 939 (2d Cir. 1984) (quoting *Durham Indus., Inc. v. N. River Ins. Co.*, 482 F. Supp. 910, 913 (S.D.N.Y. 1979)). In addition, “the movant must show that he will be prejudiced by inclusion of the defense” in order for the court to grant a motion to strike. *Connell v. City of New York*, 230 F. Supp. 2d 432, 438 (S.D.N.Y. 2002). Plaintiff has failed to make the requisite showing and does not allege in his motions that Defendants’ affirmative defenses will prejudice him in any way. As a result, Plaintiff’s motions to strike are denied.

This resolves Dkt. Nos. 131, 132, and 133.

SO ORDERED.

Dated: November 11, 2015
New York, New York

A handwritten signature in dark ink, appearing to read 'Alison J. Nathan', is written over a horizontal line.

ALISON J. NATHAN
United States District Judge